THE HON'BLE SRI JUSTICE B. PRAKASH RAO

AND

THE HON'BLE SRI JUSTICE D. APPA RAO

WRIT APPEAL Nos.210 and 322 of 2006

27th March 2006

(Writ Appeals under Clause 15 of the Letters Patent is against the Order dated 26.07.2005 in W.P.No.13395 of 1999 on the file of the High Court.)

Between:

A.P. State Warehousing Corporation, rep. By
Its Managing Director, Warehouse Sadan,
Nampally, Hyderabad and another.

Appellants/Respondents.

And

K.S.Prakasa Rao,
S/o Late Appalaswamy,
Aged 58 years,
R/o Bhimadole, W.G. District.

Respondent/Petitioner.

THE HON'BLE SRI JUSTICE B. PRAKASH RAO

AND

THE HON'BLE SRI JUSTICE D. APPA RAO

WRIT APPEAL Nos.210 and 322 of 2006

COMMON JUDGMENT: (Per Hon'ble Sri Justice B. Prakash Rao)

Heard Ms. Kameswari, the learned Standing Counsel appearing for the appellant in Writ Appeal No.210 of 2006 and Sri G. Vivekanand, the learned counsel appearing for the appellant in W.A.No.322 of 2006.

These two appeals arose out of a common matter by way a Writ Petition seeking to set aside the final orders passed after disciplinary enquiry whereby the writ petitioner was sought to be reversed in rank from the post of Warehouse Manager Grade-II to that of Grade-III after regular enquiry.

The few facts, which are necessary for disposal of these appeals, are that the writ petitioner was initially appointed as Junior Assistant. On certain allegations, while he was working as Warehouse Manager at Amudalavalasa, a charge memo was issued on 28.07.1994 by framing in all 15 charges, to which he gave explanation on

09.08.1994. After making enquiry, the Enquiry Officer submitted a report on 25.01.1995 wherein ultimately a finding was given only as against charge No.14. The Managing Director/Competent Authority, accepting the said report, issued a show cause notice dated 14.09.1995 proposing to impose punishment of compulsory retirement from service. The appellant filed his explanation on 09.10.1995. However, final order was passed on 04.12.1995 punishing him by way of reduction in rank from the post of Warehouse Manager Grade-II to that of Grade-III and treating the period of suspension as on leave. On further appeal, the same order was confirmed. Hence, the Writ Petition.

The learned single Judge, after hearing the counsel on either side and on perusal of the material available on record, found that having regard to the clear finding in regard to charge No.14 which relates to utilization of new and scrap empty gunny bags, the punishment imposed by way of reduction in rank from Grade-II to that of Grade-III is quite disproportionate and therefore, the said punishment was modified restoring him to the post of Grade-II one year prior to the date of retirement and he shall be deemed to have been retired as Warehouse Manager Grade-II on attaining the age of superannuation and his pension and other benefits shall be

calculated.

Though several submissions are sought to be made by the counsel on either side challenging the said finding, the fact remains that out of 15 charges, only in regard to charge No.14, a finding was given against the writ petitioner. Therefore, it is to be seen that what possible punishment shall be imposed on such finding given by the enquiry officer, which has been accepted by this Court. The said charge admittedly relates to utilization of new and scrap of empty gunny bags which has substantial in number. Having regard to the same and the learned single Judge has found that it would suffice to restore Grade-II one year prior to the retirement and therefore, he was directed to restore in Grade-II. In view of the same and especially having regard to the nature of allegations which have been found and as ultimately charge No.14 is proved out of 15 charges, we do not find any error in the order impugned to warrant the interference of this Court.

Both the appeals are accordingly dismissed confirming the punishment as imposed by the learned single Judge restoring the appellant in Writ Appeal No.322 of 2006 herein as Warehouse Manager Grade-II one year prior to the date of his retirement and he

shall be deemed to have been retired as Warehouse Manager Grade-II on attaining the age of superannuation with all consequential benefits and the period of suspension shall be treated as on leave.

Subject to the above, both the appeals are dismissed. No costs.

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B. PRAKASH RAO, J

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D. APPA RAO, J

27th March 2006.
Chvn.